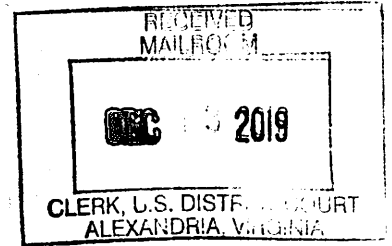


AO 241
(Rev. 01/15)

**Petition for Relief From a Conviction or Sentence
By a Person in State Custody**
(Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus)



Instructions

1. To use this form, you must be a person who is currently serving a sentence under a judgment against you in a state court. You are asking for relief from the conviction or the sentence. This form is your petition for relief.
2. You may also use this form to challenge a state judgment that imposed a sentence to be served in the future, but you must fill in the name of the state where the judgment was entered. If you want to challenge a federal judgment that imposed a sentence to be served in the future, you should file a motion under 28 U.S.C. § 2255 in the federal court that entered the judgment.
3. Make sure the form is typed or neatly written.
4. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
5. Answer all the questions. You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit a brief or arguments, you must submit them in a separate memorandum.
6. You must pay a fee of \$5. If the fee is paid, your petition will be filed. If you cannot pay the fee, you may ask to proceed in forma pauperis (as a poor person). Also, you must submit a certificate signed by an officer at the institution where you are confined showing the amount of money that the institution is holding for you.
7. In this petition, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different court (either in the same state or in different states), you must file a separate petition.
8. When you have completed the form, send the original to the correct Clerk of the United States District Court:

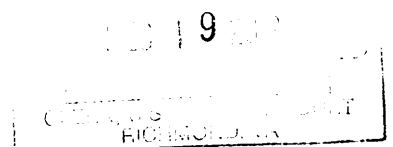
Clerk
United States District Court
for the Eastern District of Virginia
701 East Broad Street, Suite 3000
Richmond, VA 23219

or

Clerk
United States District Court
for the Western District of Virginia
210 Franklin Road SW, Suite 540
Roanoke, VA 24011-2208

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.

9. **CAUTION:** You must include in this petition all the grounds for relief from the conviction or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.
10. **CAPITAL CASES:** If you are under a sentence of death, you are entitled to the assistance of counsel and should request the appointment of counsel.



AO 241
(Rev. 01/15)PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court		District: <u>EASTERN District</u>
Name (under which you were convicted): <u>Mushtaq Mahdi Al SAEDI</u>		Docket or Case No.: <u>1:19cv1387</u>
Place of Confinement: <u>FARMVILLE DETENTION CENTER</u>	Prisoner No.:	
Petitioner (include the name under which you were convicted) <u>Mushtaq Mahdi Al SAEDI</u>		Respondent (authorized person having custody of petitioner) <u>COMMONWEALTH of VIRGINIA</u>
v.		
The Attorney General of the State of:		

PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

Rockingham County Circuit Court / City of HARRISONBURG, VA

- (b) Criminal docket or case number (if you know):
- 1387-16-3

2. (a) Date of the judgment of conviction (if you know):
- July 22, 2016

- (b) Date of sentencing:
- July 22, 2016

3. Length of sentence:
- 5 years with 3 years suspended / 5 years with 3 years suspended

4. In this case, were you convicted on more than one count or of more than one crime?
- ☒
- Yes
- ☐
- No

5. Identify all crimes of which you were convicted and sentenced in this case:

CR-015-506 MALICIOUS WOUNDING (§) 18.2-51)CR-015-507 ACCESSORY/MALICIOUS WOUNDING (§) 18.2-26 § 18.2-51)

6. (a) What was your plea? (Check one)

☒ (1) Not guilty ☐ (3) Nolo contendere (no contest)☐ (2) Guilty ☐ (4) Insanity plea

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(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

DEFENDANT PLEADED NOT GUILTY ON ALL CHARGES

(c) If you went to trial, what kind of trial did you have? (Check one)

☐ Jury ☒ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☒ Yes ☐ No

8. Did you appeal from the judgment of conviction?

☒ Yes ☐ No

9. If you did appeal, answer the following:

(a) Name of court: COURT OF APPEALS OF VIRGINIA

(b) Docket or case number (if you know): 1845-18-3

(c) Result: DENIED

(d) Date of result (if you know): JUNE 20, 2019

(e) Citation to the case (if you know):

(f) Grounds raised: PETITIONER WAS DEPRIVED OF HIS RIGHT TO APPEAL HIS CONVICTIONS TO THE COURT OF APPEALS BASED ON INEFFECTIVE COUNSEL.

SEE ATTACHED: PAGES #12 THROUGH #27

(g) Did you seek further review by a higher state court? ☒ Yes ☐ No

If yes, answer the following:

(1) Name of court: SUPREME COURT OF VIRGINIA

(2) Docket or case number (if you know): 190949

(3) Result: DENIED

(4) Date of result (if you know): SEPTEMBER 26, 2019

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(5) Citation to the case (if you know): _____

(6) Grounds raised: _____

PETITIONER WAS DEPRIVED HIS RIGHT TO
APPEAL HIS CONVICTIONS TO THE COURT OF APPEALS BASED ON
INEFFECTIVE COUNSEL.

(h) Did you file a petition for certiorari in the United States Supreme Court?

☒ Yes

☐ No

If yes, answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

Pending

(3) Date of result (if you know): _____

Pending

(4) Citation to the case (if you know): _____

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☒ Yes ☐ No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: _____

Rockingham County

(2) Docket or case number (if you know): _____

1387-16-3

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

1) PETITIONER WAS DEPRIVED OF HIS RIGHT TO APPEAL HIS CONVICTIONS
TO THE COURT OF APPEALS BASED ON INEFFECTIVE COUNSEL. 2) LANGUAGE BARRIERS.
3) EVIDENCE OVERLOOKED BY JUDGE/ERROR BY HOLDING THAT THE TRIAL COURT DID
NOT ERR BY ALLOWING WITNESS TO BE ADMITTED INTO EVIDENCE DESPITE THE
WITNESS INABILITY TO RECALL THE DETAILS OF THE INCIDENT AND THE FACT
THAT THE WITNESS DID NOT PROPERLY ADOPT AND AUTHENTICATE THE
PREVIOUS STATEMENT. VIOLATION OF APPELLANT'S RIGHT TO EFFECTIVE CROSS
EXAMINE WITNESS WAS ADMITTED VIOLATION OF 6TH AMENDMENT.
SEE ATTACHED.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result: _____

Pending

(8) Date of result (if you know): _____

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(b) If you filed any second petition, application, or motion, give the same information:

- (1) Name of court: Court of Appeals of Virginia
- (2) Docket or case number (if you know): 1845-18-3
- (3) Date of filing (if you know): _____
- (4) Nature of the proceeding: _____
- (5) Grounds raised: PETITIONER WAS DENIED HIS RIGHT TO APPEAL
HIS CONVICTIONS TO THE COURT OF APPEALS BASED ON
INEFFECTIVE ASSISTANCE OF COUNSEL.
- _____
- _____
- _____
- _____
- _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No(7) Result: DENIED(8) Date of result (if you know): JUNE 20, 2019

(c) If you filed any third petition, application, or motion, give the same information:

- (1) Name of court: SUPREME COURT OF VIRGINIA
- (2) Docket or case number (if you know): 190949
- (3) Date of filing (if you know): _____
- (4) Nature of the proceeding: _____
- (5) Grounds raised: PETITIONER WAS DEPRIVED OF HIS RIGHT TO
APPEAL HIS CONVICTIONS TO THE COURT OF APPEALS BASED
ON INEFFECTIVE ASSISTANCE OF COUNSEL.
- _____
- _____
- _____
- _____
- _____

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(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result: DENIED

(8) Date of result (if you know): September 26, 2019

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☒ Yes ☐ No

(2) Second petition: ☒ Yes ☐ No

(3) Third petition: ☒ Yes ☐ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: SEE ATTACHED: PAGES # 12 THROUGH # 27

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

SEE ATTACHED: PAGES # 12 THROUGH # 27

(b) If you did not exhaust your state remedies on Ground One, explain why:

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(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue? ☒ Yes ☐ No(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: HABEAS CORPUSName and location of the court where the motion or petition was filed: SUPREME COURT OF VIRGINIADocket or case number (if you know): 180177Date of the court's decision: SEPTEMBER 11, 2018Result (attach a copy of the court's opinion or order, if available): _____

_____(3) Did you receive a hearing on your motion or petition? ☒ Yes ☐ No(4) Did you appeal from the denial of your motion or petition? ☒ Yes ☐ No(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☒ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: SUPREME COURT OF VIRGINIADocket or case number (if you know): 180177Date of the court's decision: SEPTEMBER 11, 2018Result (attach a copy of the court's opinion or order, if available): _____

_____(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

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(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: HABEAS CORPUS

GROUND TWO:

HABEAS CORPUS

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

SEE ATTACHED: PAGES # 12 THROUGH # 27

(b) If you did not exhaust your state remedies on Ground Two, explain why:

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☒ Yes

☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

HABEAS CORPUS

Name and location of the court where the motion or petition was filed:

SUPREME COURT OF VIRGINIA

Docket or case number (if you know):

180177

Date of the court's decision:

SEPTEMBER 18, 2018

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Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☒ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

FEDERAL Appeal pending

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: HABEAS CORPUS

GROUND THREE: HABEAS CORPUS

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

SEE ATTACHED: PAGES #12 through #27

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(b) If you did not exhaust your state remedies on Ground Three, explain why: _____

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☒ Yes

☐ No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: HABEAS CORPUS

Name and location of the court where the motion or petition was filed: SUPREME COURT OF VIRGINIA

Docket or case number (if you know): 180177

Date of the court's decision: SEPTEMBER 11, 2018

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

☐ Yes

☒ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes

☒ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes

☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

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(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

FEDERAL APPEAL PENDING

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: HABEAS CORPUS

GROUND FOUR:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Four, explain why:

(c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

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Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

☐ Yes

☐ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes

☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes

☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: _____

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13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☒ Yes ☐ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

1) The fact that Appellant did not speak, read or write English 2) witness could not identify Appellant as ASSAILANT; could not/did not identify Appellant in court.

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

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16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: WARREN A. Picciolo
606 South MAIN STREET, HARRISONBURG, VA 22801

(b) At arraignment and plea: _____

(c) At trial: WARREN A. Picciolo
606 South MAIN STREET, HARRISONBURG, VA 22801

(d) At sentencing: WARREN A. Picciolo
606 South MAIN STREET, HARRISONBURG, VA 22801

(e) On appeal: JUSTIN L. CORDER
409 VIRGINIA AVE., HARRISONBURG, VA 22802

(f) In any post-conviction proceeding: LOUIS K. NAGY
590 East MARKET STREET, HARRISONBURG, VA 22801

(g) On appeal from any ruling against you in a post-conviction proceeding: LOUIS K. NAGY
590 East MARKET STREET, HARRISONBURG, VA 22801

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☐ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*

FINAL JUDGEMENT OF CONVICTION IN THE SUPREME COURT OF
VIRGINIA WAS ISSUED ON SEPTEMBER 26, 2019

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be a standard notebook page or a sheet of stationery.

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
 - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.
- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

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Therefore, petitioner asks that the Court grant the following relief:

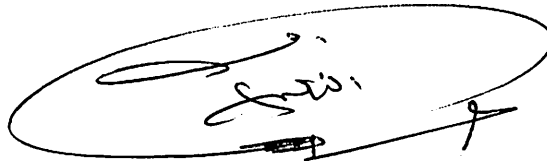
Modify SENTENCES imposed AND/OR
dismiss SENTENCES. REVERSE decision by the judge in Appellant's case

or any other relief to which petitioner may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on December 8, 2019 (month, date, year).

Executed (signed) on December 8, 2019 (date).



Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

